

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani  
----- Chairman

Hon'ble Mr. D.K.Kotia  
-----Vice Chairman (A)

**CLAIM PETITION NO. 07/DB/2018**

Smt. Dhaneshwari Negi, aged about 55, W/o Sri Yogeshwar Singh Negi at present working and posted as Khand Vikas Adhikari, Pauri, District Pauri Garhwal, Uttarakhand.

.....Petitioner

**vs.**

State of Uttarakhand and Others

.....Respondents.

Present: Sri M.C.Pant &  
Sri L.K.Maithani, Counsel  
for the petitioner.

Sri U.C.Dhaundiyal, A.P.O.  
for the Respondents.

**JUDGMENT**

**DATED: MARCH 05, 2018**

**Justice U.C.Dhyani (Oral)**

By means of present claim petition, petitioner seeks following reliefs:-

*“(i) To issue an order or direction to the respondent department to extend the benefit of judgment and order dated 09.03.2015 passed in Claim Petition No. 62/2012 and correct the impugned seniority list dated 16.04.2012 in respect of the*

*petitioner also by considering the facts highlighted in the body of the petition.*

- (ii) To issue an order or direction, directing the respondents to redraw the seniority list and place the petitioner above the private respondents No. 5 to 28 in the seniority list dated 16.04.2012, keeping in view of his continuous officiation as BDO w.e.f. 26.10.2004 and treating as regular promotion for the purpose of seniority along with all consequential benefits and also to allow the benefit of grade pay of Rs.6600/- w.e.f. 01.09.2008 and to correct the order dated 25.06.2016 appropriately in this regard after calling the entire records from the respondents along with its effect and operation also.*
- (iii) Any other relief which the Court deems fit and proper in the circumstances of the case.*
- (iv) Cost of the petition be awarded to the petitioner.”*

2. Briefly put, the case of the petitioner is that, she was appointed and posted as Assistant Development Officer(Women) in Block Development Office, Bhatwari vide order dated 03.02.1989 of D.M., Uttarkashi. The petitioner was promoted on the post of Joint Block Development Office. Later on, the Government merged the post of Joint Block Development Officer with the post of Block Development Officer (BDO). After merger of the posts, since 17.01.2002, the petitioner is continuously holding the post of BDO. Vide order dated 20.10.2004, the petitioner was promoted to the post of BDO on ad-hoc basis. Vide order dated 31.03.2011, the petitioner was given regular promotion in consultation with Public Service Commission showing that the promotion was given in respect of recruitment year 2002-03. Vide order dated 16.04.2012, Respondent No. 2 issued a final seniority list, in which, petitioner was placed at Sl. No. 87. Objections were raised by the petitioners, but the same were rejected.

3. On 06.12.2013, Respondent No.4 informed the petitioner that since her second promotion was made on the post of BDO *vide* order dated 20.10.2004 on ad-hoc basis and, regular promotion was made on 31.03.2011, therefore, third ACP can be granted only after 26 years of service. Respondent No.4 did not address the issue involved in the representation. Petitioner, thereafter made a representation on 12.02.2014 before the Additional Commissioner, Rural Development Department, but such representation has not been decided so far.
4. After arguing for a while, Ld. Counsel for the petitioner prayed that petitioner's representation may kindly be directed to be decided in terms of judgment and order dated 09.03.2015 passed by this Tribunal in claim petition No. 62/2012 Ganesh Lal vs. State & others. Ld. Counsel for the petitioner submitted that the facts of the present petition are similar to the facts of *Ganesh Lal* and, since the issue involved in present claim petition is identical, therefore, Respondent No.1 be directed to decide the representation of the petitioner in the light of the decision dated 09.03.2015 rendered by this Tribunal in claim petition No. 62/2012 Ganesh Lal vs. State & others.
5. Ld. A.P.O., in reply, submitted that the *ad-hoc* promotion of the petitioner, on the post of BDO, is *de hors* the Rules. Petitioner was appointed by D.M., which is contrary to Rules. He, however, fairly admitted that the judgment rendered by this Tribunal, has been carried out/ complied with and has, therefore, attained finality.
6. Ld. Counsel for the petitioner submitted that Annexure: A 3, is only a communication by the D.M., of the decision taken by the Government and, therefore, it does not lie in Respondent's mouth

to say that the petitioner was appointed by the D.M. and not by the Government.

7. We are inclined to accept innocuous prayer of Ld. Counsel for the petitioner that representation of the petitioner be directed to be decided by the competent authority, as per law, in a time bound manner. By doing so, we are not expressing any opinion on the merits of the claim petition.
8. The claim petition is, accordingly, disposed of at the admission stage by directing the petitioner to move a representation to Respondent No.1 within two weeks from today. Thereafter, Respondent No.1 is directed to decide the representation of the petitioner by a reasoned and speaking order, in accordance with law, in the light of decision rendered on 09.03.2015 by this Tribunal in claim petition No. 62/2012 Ganesh Lal vs. State & others within six weeks of presentation of certified copy of this order along with copies of representation and judgment dated 09.03.2015.
9. Needless to say, that the decision so taken, shall be communicated to the petitioner soon thereafter.

**(D.K.KOTIA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: MARCH 05, 2018*  
*DEHRADUN*

VM